THE HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.501 of 2005

Dated: 23-11-2006

Between:

Smt. Boini Salamma and others.

..... PETITIONERS

AND

The Mandal Revenue Officer, Chagalamarri,
Kurnool District and others.

.....RESPONDENTS

THE HON'BLE SRI JUSTICE V.V.S. RAO

WRIT PETITION No.501 of 2005

ORDER:

The petitioners, who are twenty-two in number, filed instant writ petition seeking a writ of Mandamus declaring the action of the respondents in cancelling the house site pattas given to them in Muthyalapadu Village, Chagalamarri Mandal in Kurnool District without notice as illegal and arbitrary. This Court, while admitting the writ petition on 24-01-2005, passed interim orders grating stay. The respondents have now moved W.V.M.P.No.772 of 2005 for vacating the interim order. As the matter involves short question, the writ petition is heard finally and is being disposed of by this order with the consent of the parties.

It is the case of the petitioners that the Government acquired land in the said Village and assigned the same to 370 poor persons as house site pattas. All the petitioners are also included in the said list of beneficiaries. In February, 2004, house site pattas were distributed and possession was handed over to the beneficiaries. They were required to construct houses within twelve months from the date of assignment. However, respondent No.1, namely, the Mandal Revenue Officer (MRO), orally directed the petitioners to stop construction on the ground that respondent No.2, namely, the Revenue Divisional Officer (RDO), directed to cancel the pattas vide proceedings Rc.G.167/2004 dated 21-12-2004. The petitioners obtained the said order/proceedings and filed this writ petition for the relief as noticed hereinabove.

In the counter-affidavit, the allegation that house site pattas were distributed in February, 2004, is denied. However, it is admitted that pattas were distributed in June, 2004. Subsequently, when adverse news reports came in the local newspapers, respondent No.3, namely, the District Collector, directed MRO to conduct *de novo* socio economic enquiry. During such enquiry, it was found that out of 370 beneficiaries, 237 are ineligible. Therefore, RDO issued the order for cancellation of house site pattas. It is also pointed out that the petitioners 1, 3, 4, 6, 7 to 9, 11, 12, 14 to 16 and 18 to 21 are having pucca houses. It is further averred that there were procedural irregularities in granting the pattas and therefore, decision is taken for cancellation of the pattas. The writ petition is also opposed on the ground that the petitioners failed to avail the alternative remedy of appeal.

As rightly contended by the learned counsel for the petitioners, MRO, who initially assigned house site pattas, did not issue any notice nor passed any formal orders cancelling the assignment. This is also not specifically denied in the counter-affidavit filed by MRO. The

impugned order issued by RDO reads as under.

> In the circumstances reported by the Mandal Revenue Officer, Chagalamarri in his reports 1st and 2nd read above and in obedience to the instructions issued in the Collector's letter 4th read above, all the house site pattas issued to all 370 individuals in Muthyalapadu Village are hereby ordered to be cancelled.
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> The Mandal Revenue Officer, Chagalamarri, is requested to take necessary action in the matter accordingly. He is also requested to prepare fresh beneficiaries list of house sites with genuine persons in prescribed form with all relevant details for approval of the Revenue Divisional Officer, Nandyal.

A perusal of the above order would show that RDO only requested MRO to take necessary action in the matter and prepare a fresh list of beneficiaries for grant of house site pattas. The same order does not amount to cancellation as such. MRO is required to issue notice to the petitioners and pass appropriate orders. Be it recorded that it is always open to MRO to cancel the assignment of house site pattas given to the persons who already own pucca houses or such persons who are not eligible for assignment of house pattas. Therefore, the matter is remitted to MRO with a direction to issue notice to all those persons where assignment has to be cancelled, obtain appropriate explanation and pass appropriate orders. This exercise may be completed within a period of six weeks from the date of receipt of a copy of this order. Till then there shall be *status quo* and the petitioners shall not raise any construction.

The writ petition, with the above observations and directions, is accordingly disposed of. No costs.

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(**V.V.S.RAO, J**)

23rd November, 2006

Note: Issue CC in one week.

B/o

ghn